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w/ Supplemental
motion &
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY *[Signature]* D.C.
05 MAY 11 PM 2:55
ROBERT R. DITROLO
CLERK OF U.S. DIST. CT.
W.D. OF TN-JACKSON

REX WILSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

(Arising out of)
Cr. No. 1-03-10032-T

1-05-1115 -T An

COPY

MOTION FOR LEAVE TO SUPPLEMENT
TITLE 28 U.S.C. § 2255 MOTION

And Now, Comes the petitioner, Rex Wilson, by and through pro-se, and pursuant to Rule 15, Fed.R.Civ.P. respectfully moves the Honorable Court to supplement his Title 28 U.S.C. § 2255 Motion.

On January 12, 2005, the Supreme Court of the United States handed down the long awaited decision in United States vs. Booker and United States vs. FanFan, 543 U.S. ____ (2005). This decision was rendered shortly before the filed, pending 28 U.S.C. § 2255 Motion. The petitioner has researched the Supreme Courts decision in Booker finding that it, and the dictates of Blakely vs. Washington, 543 U.S. ____ (2004) apply in this case. It is paramount that the issues as "more fully set forth", in the accompanying supplemental motion be raised at this time in the interests of justice in this case. The government will not be prejudiced if the Court consider the applicability of the Booker and FanFan decision to this case as more fully set forth in the attached supplemental motion. The petitioner believes that the allegations of his original 28 U.S.C. § 2255 Motion will be substantially clarified by allowing the attached supplemental motion.

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05 MAY 12 PM 3:08
ROBERT R. DITROLO
CLERK OF U.S. DIST. CT.
W.D. OF TN-JACKSON

This document entered on the docket sheet in compliance
with Rule 55 and/or 32(b) FRCP on 5/12/05

MOTION GRANTED

DATE: 11 May 2005

[Signature]
James D. Todd
U.S. District Judge

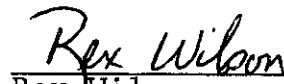
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Section 2242 of the Judicial Code provides that habeas corpus applications "may be amended or supplemented as provided in the rules of procedure to civil actions," Id. 28 U.S.C. § 2242.¹

Wherefore, the petitioner respectfully asks the Honorable Court to allow him to supplement the pending motion to vacate, correct, or set aside pursuant to 28 U.S.C. § 2255, with the attached supplemental motion

Dated this 21st day of April, 2005.

Respectfully Submitted



Rex Wilson
#19055-076
Pro-Se
Federal Correctional Institute
PMB 1000
Talladega, Alabama 35160

1. Likewise, Rule 11 of the Rules Governing § 2254 cases provides that "[T]he Federal Rules of Civil Procedure, to the extent that they are not inconsistent with these rules, may be applied, when appropriate, to the petitions filed under these rules." [T]he Advisory Committee Note to Habeas Rule 5 points out, in turn, that "under [Habeas] Rule 11 the Court is given the discretion to incorporate Federal Rules of Civil Procedure when appropriate", so civil rule 15 may be used to allow the petitioner to supplement his motion to vacate based on the Booker and FanFan decision. See, R. Hertz and J.S. Liebman, Federal Habeas Corpus Practice and Procedure, §17.2 (4th ed. 1998).



Notice of Distribution

This notice confirms a copy of the document docketed as number 4 in case 1:05-CV-01115 was distributed by fax, mail, or direct printing on May 12, 2005 to the parties listed.

Rex Wilson
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USA

,

Honorable James Todd
US DISTRICT COURT